



Airport Operations Board Meeting
Thursday September 13, 2012
Kelso City Hall Council Chambers
203 South Pacific Kelso, WA 98626

Those present were as follows:

Operating Board:

George Raiter, Cowlitz County
David Futcher, City of Kelso
Dennis Weber, City of Longview
Darold Dietz, Port of Longview

Staff:

Dan Johnson, Airport Operations Manager
David Sypher, Public Works Director
Janean Parker, City Attorney
Becky Hill, Department Assistant
Don Bell, Assistant Airport Director
Steve Taylor, City Manager

1. Call to Order: Meeting was called to order at 3:07 pm by Chairman George Raiter

2. Pledge of Allegiance-Led by Chairman Raiter

3. Roll Call- Members of Operating Board present : Chairman George Raiter, Board Member Futcher
Board Member Dietz, Board Member Weber. Board Member at Large Norm Krehbiel absent.

4. Minutes-Minutes from meeting August 9th and continuation of Meeting on August 30 2012—not ready at this time.

5. Proposed Regulations on Ordinance (to be adopted by Board and each entity):

City Attorney Parker-You would have approved these regulations at a prior meeting and then after that approval, we did get comments back from the FAA and Mr. Wise. Went back and did some amendments to the regulations and specifically regarding some self-fueling which was the jest of FAA's comments. The revised regulations are before you in redline format so that if you have any questions about the changes would be happy to answer them for you. She basically added some additional specific allowed self-fueling and some additional requirements for fueling in general at the airport.

Board Member Weber-My understanding is the FAA insists that we allow self fueling and the FBO raised some objections to that. Did we ever resolve this issue?

City Attorney Parker-Does not believe the FBO objected to self fueling and believes he understands that it has to be allowed under FAA rules.

Board Member Dietz-Stated that what the FBO objected to was that it is was being done without a flowage fee.

Chairman Raiter-What does FAA say about that? (flowage fees)

City Attorney Parker-FAA says that the city of the airport may pass on a flowage fee but does not require that there be a flowage fee assessed.

Chairman Raiter-But our agreement with the city is that there would be flowage fees, is that correct?

City Attorney Parker-Sent an email earlier in the day and will go over that briefly. As she understands, the city does not at this time by ordinance require a flowage fee. At one time had adopted a flowage fee and then increased it over the years. In approximately 1992, the city repealed that ordinance in its entirety and that would have included both the flowage fees which at that time was about \$.07 cents and also repealed the 2nd section which was the definition of sold. But as Mr. Wise correctly pointed out, in our code there is still a section 2 that references a definition of the term "Sold" and references a chapter that does not exist anymore, so it was out of context and did not make sense. Attorney believes it to be an error of codification and will be contacting the codifier about that and see about having that taken care of. She then did a quick perusal of the rest of the city's codes thinking maybe we re-adopted something subsequent to 1992 and found nothing and is nothing she is aware of. Believes at this time there is no flowage fee adopted by ordinance.

Chairman Raiter-Asked if there is any priority as far as intent or does that ordinance strictly repeal the flowage fee?

City Attorney Parker-Yes it actually stated it found the flowage fees to no longer be of public interest and was actually intending to repeal flowage fees.

Chairman Raiter-So the city has an ordinance that says there will be no flowage fees, we have an agreement with the city who has an agreement with the FBO saying he may collect flowage fees. Is that correct?

City Attorney-No and actually this is how I understand it and verbally have contacted the Finance Director so I will tell what I think happened. "What I think happened and what I think the contract says and what I think we have been doing". By contract the City of Kelso and the FBO, there was payment of flowage fees that was part of compensation flowing back and forth as part of the overall agreement. At the renewal or the re-negotiation of that contract, the flowage fee was taken out but because it was part of the compensation, the city had been paying an excise tax on the flowage fees. For some reason the excise tax language remained in the new contract, but as I understand it, there is no flowage fee so tax on zero would be zero and understand we have not been collecting from the FBO or remitting to the state that tax because there is no underlying fee on which it is based.

Board Member Dietz-Understands the flowage fees but not sure why is ended, maybe enough of the pilots came in and said we don't want that anymore and we are against that. Can maybe see that as one of the ways that the FBO plans on making some money. The part that is still confusing is why the city has to pay an excise tax on the flowage fee that is collected.

City Attorney Parker-As she understands, because it was compensation back and forth for rental of real property, it was excise tax related to leasehold, because it was part of a rental. Is not sure

about it as she was not part of that so not sure she understands how that came to be but that is what we are doing. Then when the flowage fees went away then the tax on flowage fess became zero as well.

Denny Wise, FBO-During negotiation on the renewal of the contract, it was actually proposed by the city to drop the flowage fees in compensation. Here is what we were trying to do. The city and I started negotiating under the old contract for services provided and it was \$2,00 per month. The city proposed-"How about since you are going to do the weekends for us, we pay you\$1,000 cash but then knock off some of the other stuff you are paying in compensation for FBO services." Believes he went through this with Mayor Fitcher and Mayor Weber at a negotiating meeting and there was dollar amounts assigned to each one of those things like the lease , the hangars and flowage fees. I would argue that indeed I am still paying a flowage fee even though it is not in terms of money but in terms of services.

Chairman Raiter-If we leave this as it reads it would remain status quo, we don't collect them, FBO doesn't collect them and no taxes are paid.

Mr. Wise-The two things I asked for and are really important to me. I am the one that did the research in the FAA Rule Book and self service has to be allowed at the airport. So there is no dispute about that whatsoever. However, what has currently just happened and what brought it to light, was now guys are going together and forming co-ops to do that (self-service fueling). It specifically states in the FAA Compliance Manual that the jurisdiction does not have to allow co-ops. Would argue from an FBO stand point right now what is happening out at the airport, the two jets that are based at the airport are going to supposedly co-op on fuel. The only future in the FBO business is to grow the corporate side out there and to have a piece of it. The next jet that comes in, he can join the co-op and so on and pretty soon your FBO is not very healthy, therefore in his opinion, the airport is not very healthy because now just a few people are benefiting, whereas the FBO who is there 7 days a week helping people of all nature. Was just talking to some of the people at the airport today and we estimate that about 80% of what we do has nothing to do with business, it is just people stopping over due to bad weather and we provide them a place to stay until the weather is better. They probably don't buy anything, but that is just part of being an FBO. Would ask the board to not allow co-ops because it puts the future if the FBO in danger and in his case, we are in negotiations on long term contract and that is certainly going to be part of that issue because without growth potential he has no interest.

Chairman Raiter to Mr. Wise- We currently have a situation that some of our major users at the airport are providing their own fuel and therefore are not providing any flowage fees, mark-ups or anything, and your statement was you have no interest in a long term contract if that continues in that nature?

Mr. Wise-If co-ops are allowed to exist, you cannot prevent self fueling, but as soon as you start allowing co-ops then basically you have created another FBO.

Chairman Raiter-Asked if there was a legal definition of a co-op in the FAA Rule Book and what does it say by the Rule Book?

Mr. Wise-They have to show joint ownership of the tank, all the equipment and it can only be themselves or their direct employees servicing those aircraft.

Discussion followed about co-op issues at the airport and the Board will look into the issue.

Board Member Futcher-We are going back to the entities to get this approved after the Board approves it and do we have to go back to the entities if we had to do this for every subsequent change?

City Attorney Parker-Yes you would because it does say that the regulations that govern the airport would have to be adopted or approved by each party to the Interlocal Agreement.

Discussion on this issue followed and it was the consensus of the Board that the Board should be able to approve policy or set a dollar amount without having to go to each party for adoption or approval.

Chairman Raiter-Does this work if we have an Interlocal Agreement that references this without having it adopted?

City Attorney Parker-The statute just states that all entities shall approve the airport regulations. If there is an agreement that the regulations give the authority to somebody to then make these decisions and then the parties have all approved the regulations, then that is possibly how we get there. Can add a clause where we would say issues related to fueling, management, monitoring shall be governed by the board.

Board Member Futcher-The concept as we understood was this control is going to the board and was not that every little thing would have to go back to all parties for approval.

City Attorney Parker-feels this is a statutory loop that we are trying to do and feels that the statute doesn't care if some of the power goes to the Administrative Board rather than the Legislative Board. Feels that would be consistent with the requirement in the statute to give that authority to the Board.

These are the regulations that govern the airport. They have to be adopted by each entity, but we can put a regulation in here that says the Board shall have the Administrative Authority or have the additional authority to make changes within certain parameters.

What about some language to the effect of "any additional policies or procedures or implementing these regulations", you would have the authority to adopt.

Board Member Futcher-Feels it should be broad enough that we can do what we need to do without going back twice.

Board Member Dietz-Believes all entities would want to see some kind of parameters especially some kind of monetary.

Board Member Weber-Question is in our long range plans at some point not having co-ops drive out the customers we want to be attracting or is there something that makes the co-ops desirable right now. The very advantage of having a co-op right now, does not want to do anything that makes it more difficult to achieve our long range goals.

Mr. Wise, FBO-Feels that City Attorney Parker is correct in that these regulations are for the operations of the airport and this is an Operations Board. Feels a simple statement that the Board is empowered to make changes to the Operations Regulations will pretty much draw that line between policy issue and the actual day to day issues which are codified in those regulations that you had before and that gets away from the monetary things.

Board Member Dietz-Feels Mr. Wise brought up a point and ask if perhaps they could help the Board understand the two sides of that issue, because just from the quick glance that he had, it looks like co-op should not be allowed and can see where shortly every new big jet owner that comes in just joins the co-op and then they can buy fuel at bigger amounts. Soon they are getting it cheaper than Mr. Wise is. We are here trying to figure out ways to get the FBO more successful and are taking it away from them.

Mr. Wise, FBO-There are places that around that the two can co-exist, but you are talking about a level of activity that is fairly high where there is more transit fueling as far as transit activity, where the FBO is participating in sales to the transits, that is not the case at this airport. Feels at this point in time and probably for a long time from time, like years, with the economy and the way aviation is going, your choice is going to be, do we allow co-ops or do we have an FBO. The only one that Mr. Wise knows of that it is allowed is at Phelps Field in Spokane, a very busy airport. The FBO there went out of business just like they are going out of business all over. So the local jurisdiction there allowed a co-op to form because there was no other way to provide fuel.

Chairman Raiter-Feels that co-op is an issue that needs to be addressed and resolved, thinks we can adopt these regulations without resolving the co-op issue.

City Attorney Parker- would make a proposal: That we add to Section 1 a new section D.

D. The Airport Board shall have the authority to implement these regulations and such other operational policies and procedures governing the use of the Airport as may be reasonable, so long as not inconsistent with these adopted airport regulations.

Hoping you would approve something like this.

Motion made to approve the Airport Regulations with the additional amendment change related to the authority allowing them to develop further regulations as may be needed.

adopt the proposed regulations with the amendment mentioned by City Attorney and other amendments by Board Member Futcher, Second by Board Member Dietz. Motion passed.

6. Budget Review-

Chairman Raiter-Do we have any revisions from the last meeting?

Public Works Director Sypher-Last time we had provided the different options we had available to us. The intent was to come back to the Board this time and receive some direction as to what you would like us to do. Will say the easy way out is to use as we have in previous years, the ending fund balance as the balancing mechanism and the Board figures it out between now and then. Obviously you do not want to spend that, but that would answer the question. Also the question that needs to be answered is we have listed the additional \$20,000 to hire the new position for each entity, raising that to \$60,000. Doesn't know if that has ever been finalized as what the board wants to recommend? Is this Board recommending \$60,000 for each entity? What that infers is that you are hiring an additional Airport Manager as recommended by Mr. Parish.

Discussion followed. Public Works Director Sypher needs some affirmation if you want to do \$40,000 or \$60,000.

Motion made to increase the annual contribution from each entity to \$60,000 for budgeting purposes by Board Member Futcher. Motion was seconded by Board Member Dietz. Discussion on motion followed. Vote called-motion passed.

Chairman Raiter- What we are saying is we want a balanced budget back next time, include the increase of the contribution to \$60,000 levels and we balance by either delaying the hiring or trim some expected expenses on maintenance or other areas. Would recommend we not show any increase in revenue until they happen.

Motion to prepare a balanced budget by taking out half of reserve fund and half maintenance funds by Board Member Futcher, motion second by Board Member Dietz, vote called, motion passed.

Public Comments:

Jerry Sorrell, Tenant at the airport-Regarding hiring of an Airport Manager, talked about delaying for a half year or so, asking for consideration if there might be some managers who would come on as part time managers to see if they can work their way into a full time position. That might offer a bit more because if we go with someone half year at full time, then there is a big issue to face on the next budget year. Chairman Raiter thanked Mr. Sorrell and the Board will look into it.

First thing we discussed was self service and the FAA says if the safety issues are addressed then every person may self serve e aircraft. He personally does that. The other issue is that any entity coming onto the field could do self service without a co-op. So if a new business comes on and states they have their own truck, has everything they need, not in a co-op-they are there. Essentially it ends up creating the same issue with the FBO if more and more show up with self service. The existing parties at the airport could look at self service and there is no argument and no issue in that. The lack of being able to do co-op if such a rule was passed does not prohibit self service. So someone coming on the airport actually has multiple choices about fueling whether it be fueling up somewhere like Scappoose, fueling with the FBO, self service or if allowed and not prohibited a co-op.

Chairman Raiter-Still has questions about where the line is for self service and two parties off of same tank. Discussion followed about self fueling and co-op.

Board Member Weber to Public Works Director Sypher- if FBO is providing the kind of service that pilots want, why they want to co-op Is the money savings so dramatic that w well run FBO is taking a chance?

Went into executive session at 3:58.

Meeting adjourned at 4:30 pm. Next meeting October 11, 2012 at SW Washington Regional Airport FBO at 2215 Parrott Way, Kelso WA 98626



Becky Hill, Recording Secretary



George Raiter, Chairman